HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.27443 of 2006

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Between:

G. Rajaiah …Petitioner.

And

J. Siddaiah and three others. ….Respondents.

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Counsel for the petitioner : None

Counsel for respondent Nos.1 to 3 : Government Pleader for Panchayat Raj & Rural Development.

Counsel for respondent No.4 : Sri V. Brahmaiah Chowdary

20th April, 2007

Per G.S. SINGHVI, C.J.

This is a petition for setting aside order dated 20-12-2006 passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') in O.A. No.1582 of 2004 whereby the Tribunal directed respondent Nos.2 to 4 herein to implement Watandari System in terms

of Memo No.91991/Vo.1/1992-5, dated 23-1-1996 in respect of Patha Rajampet Village, Kamareddy Mandal, Nizamabad District and consider the case of the applicant (respondent No.1 herein) for appointment as Village Servant.

In response to Notification No.A4/2307/95, dated 7-11-1995 issued by Mandal Revenue Officer, Kamareddy (respondent No.4), petitioner – G. Rajaiah and two others applied for appointment as Seth Sindhis i.e. Village Servants. The petitioner was selected and appointed as Seth Sindhi vide Proceedings No.A4/2307/95, dated 3-1-1996 issued by respondent No.4. After almost eight years, respondent No.1 filed an application under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act') for quashing Proceedings No.A3/870/2003, dated 26-9-2003 whereby Revenue Divisional Officer, Kamareddy rejected his claim for being allowed to continue as Village Servant of Patha Rajampet Village. He also prayed for setting aside the appointment of the petitioner. The same was registered as O.A.No.1582 of 2004. By the impugned order, the Tribunal disposed of the application and gave direction, to which reference has been made in the opening paragraph of this order.

In paragraphs 4 and 6 of the affidavit filed by him in support of the writ petition, the petitioner has averred that respondent No.1 was not eligible to be appointed as Village Servant for Patha Rajampet Village because he is a native and resident of Chinna Mallareddy Village, which is 4 kms. away from Patha Rajampet; that respondent No.1 was appointed as Village Servant, but his appointment was terminated by respondent No.4 vide Proceedings No.A4/2307/95, dated 7-11-1995, and that the application filed by respondent No.1 was barred by time.

In the counter filed by him, respondent No.4 has supported the cause of the petitioner. For the sake of reference, paragraphs 4 to 6 of his affidavit are extracted below:

> "4. In reply to para 3 of the petitioner affidavit, I submit that respondent No.1 herein worked as Village Servant (SS) of Patharajampet village of Kamareddy Mandal during the period

from 6/89 to 6/91. Sri Jula Bala Rajaiah worked from 7/91 to 6/92 and Sri Sangi Shivaraj worked from 7/92 onwards till his removal from service vide MRO, Kamareddy Proc.No.A4/2307/95 dt.20-8-1995 on the charges of absconding from duty and complaints of Patharajampet villagers about his irregular duty. Subsequently, a notification calling for applications to fill up the vacant posts of Village Servants in Kamareddy Mandal including that Patharajampet village was issued vide Reference No.A3/2307/95 dt.7-11-1995 and the petitioner herein was appointed as Village Servant vide MRO, Kamareddy Proc.No.A4/2307/95, dt.3-1-1996 against the vacancy caused due to removal from service of Sri Sangi Shivaraj. The petitioner is working as Village Servant till today. None of the share holders have filed any appeal against such appointment.

5. In reply to para 4 of the petitioner affidavit, I submit that respondent No.1 herein had filed an application before the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad vide O.A.No.2321 of 2003 which was disposed of on 17-4-2003 directing the applicant to make a representation to the RDO, Kamareddy ventilating his grievances, including his rights to be appointed as Village Servant of Patharajampet Village within 10 days and the RDO to dispose of his representation within one month. Accordingly, the applicant filed a representation before the RDO, Kamareddy on 6-5-2003 and the 3rd respondent herein after hearing the petitioner and perusing the records has rejected his claim for appointment as Village Servant of Patharajampet Village vide Proceedings No.A3/870/2003, dt.26-9-2003.

6. In reply to para 6 of the petitioner affidavit, the averments of the petitioner that he was appointed as Village Servant on 3-1-1996 after due process of notification and selection and working as Village Servant for more than 10 years is admitted. The Govt. Memo No.91991/VO-1/1992-5, dt.23-1-1996, Collector, Nizamabad Circular instructions No.C4/4571/95, dt.7-1-1996 and 25-5-1996 were issued much later than the action of the then Mandal Revenue Officer, Kamareddy removing Sri Sangi Shivaraj, Village Servant of Patharajampet herein was appointed vide MRO, Kamareddy Proc.No.A4/2307/95, dt.3-1-1996 i.e. before the issuance of the Govt. and Collector Nizamabad instructions."

In his affidavit, respondent No.1 - J. Siddaiah has averred that he

had worked as Village Servant from June, 1989 to June, 1991 and thereafter his cousins, Jula Balaraj and Jula Shivaraj worked in that position. He further averred that respondent No.4 had illegally removed him from the position of Village Servant. In paragraphs 3 and 4 of his affidavit, respondent No.1 has averred as under:

> 3. I submit that my forefathers were working as Village Servants under Watandari System one after another in Patha Rajampet village. In continuation therefore I have worked as Village Servant right from June 1989 to June, 1991 as per arrangement and the same is fortified by the service certificate issued in my favour by the 3rd respondent dt.6.1.1998. Later, as per the arrangement my cousin Jula Balaraj worked from 1.7.91 to 30.6.92 and thereafter another cousin Jula Shivaraj worked from 1.7.92 to 20.6.95 and thus the petitioner and their family members were working as Village servants of the said village till the year 1996. Though in the interregnum the said Shivaraj was appointed on permanent basis as Village Servant through the proceedings dated 1.1.1994, but subsequently the official respondents withdrew the said proceedings and have permitted the Watandari system.
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> 4. While things stood thus, during the tenure of Balarajaiah, one among the eight watandars and whose against there were certain allegations and complaints and he was removed from service. But, however, mere removal of one Watandar out of the eight watandars does not itself sufficient to mean that all the watandars were removed and the remaining watandars would have been continued as there was no allegation against them nor there was any deficiency in their service or complaint against them. For the reasons best known to the official respondents, the same has been dispensed with, without giving notice or opportunity either to me or to other Watandars. Though repeated representations are made to the official respondents right from 1996 onwards, they did not consider the same and hence I have filed OA No.2321/2003 before the Honourable Tribunal and the same was disposed of with a direction to make fresh representation and the respondents therein were directed to dispose of the same as per rules, by order dated 17.4.2003. Accordingly, I made representation and the respondents have rejected my claim through the proceedings dated 26.9.2003. Aggrieved against the same, I

have filed OA No.1582/2004 before the Honourable Tribunal contending inter alia that the discontinuation of Watandar system for a folly that was committed by one of the Watandar and is against to the guidelines issued in Memo No.91991/Vol.I/1992-5, dated 23.1.1996 etc. and the Honourable Tribunal after considering the rival contentions and the established judicial precedents with a well reasoned and well considered order dated 20.12.2006 with the following observation:

> "… Therefore, it would be appropriate to direct the respondents 1 to 3 to implement the watandari system in terms of the guidelines issued in Memo No.91991/Vol.I/1992-5, dt.23.1.1996 in respect of Patha Rajampet and consider the case of the applicant for engaging as Village Servant. Accordingly, the OA is disposed of. No costs."

We have heard learned counsel for the parties and scrutinised the records. In our opinion, the order impugned in the writ petition is liable to be set aside because the Tribunal committed a jurisdictional error by entertaining the time barred application. Undisputedly, the petitioner had been appointed as Village Servant on 3-1-1996. Respondent No.1 could have challenged the petitioner's appointment by filing an application under Section 19(1) of the Act within one year counted from 3-1-1996. However, the fact of the matter is that he filed application some time in February, 2004 i.e. after seven years of the expiry of period of limitation prescribed under Section 21 (1) of the Act. Respondent No.1 could have applied for condonation of delay under Section 21(3) of the Act by showing that there was sufficient cause for not filing the application within the period of limitation prescribed under Section 21 (1), but, as is evident from the order under challenge, he i.e. respondent No.1 neither applied for condonation of delay nor made any prayer to that effect. Therefore, there is no escape from the conclusion that the Tribunal did not have the jurisdiction to entertain the application filed by respondent No.1 questioning the appointment of the petitioner and the order under challenge is liable to be set aside on that ground.

Shri V. Brahmaiah Chowdary tried to convince us that the Tribunal had rightly entertained the application filed in 2004 for quashing communication dated 26-9-2003 vide which respondent No.3 rejected the application made by him in the context of order dated 17-4-2003 passed in O.A.No.2321 of 2003, but we have not felt impressed. In our considered view, the direction given by the Tribunal for disposal of the representation of respondent No.1 was not sufficient for revival of the time barred claim. If respondent No.1 had challenged proceedings dated 3-1-1996 by filing application in the year 2003, the same was bound to be dismissed as time barred. Therefore, the innocuous direction given by the Tribunal for consideration of his representation cannot be made basis for entertaining the application filed in 2004 for questioning the petitioner's appointment.

We are further of the view that the Tribunal could not have issued the impugned direction without quashing proceedings dated 3-1-1996 issued by respondent No.4 for appointment of the petitioner as Village Servant. It appears to us that in order to avoid summary dismissal of the application filed by him on the ground of limitation, the appellant projected his cause with reference to communication dated 26.9.2003. However, this machination should not have confused the Tribunal. It should have lifted the veil and considered the prayer of respondent No.1 keeping in view the fact that the petitioner had been appointed as Village Servant vide proceedings dated 3-1-1996 and without quashing those proceedings, the applicant (respondent No.1) was not entitled to be re-inducted as Village Servant of Patha Rajampet.

For the reasons mentioned above, the writ petition is allowed. Order dated 20-12-2006 passed by the Tribunal in O.A.No.1582 of 2004 is quashed and the interim order is vacated.

As a sequel to the above, WPMP.No.35238 of 2006 filed by the petitioner for interim relief and WVMP.No.927 of 2007 filed by respondent No.1 for vacating the interim order are disposed of as infructuous.

G.S.SINGHVI, C.J.

20th April, 2007

C.V.NAGARJUNA REDDY, J.

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